

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

FIFTY-THIRD LEGISLATIVE DAY
THURSDAY, FEBRUARY 27, 2003

Senate Chamber

President Risch called the Senate to order at 10:45 a.m.

Roll call showed all members present except Senator Davis, absent and formally excused by the Chair; and Senators Cameron and Stennett, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Abigail Morehouse, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

Senators Cameron and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 26, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SR 103

BY JUDICIARY AND RULES COMMITTEE

A SENATE RESOLUTION

DECLARING THE IMPORTANCE OF READING TO CHILDREN AND ENCOURAGING IDAHO PARENTS, EDUCATORS AND OTHER ADULTS TO MAKE READING TO CHILDREN A PRIORITY.

Be It Resolved by the Senate of the State of Idaho:

WHEREAS, the Senate believes that achieving the goal of teaching every child to read and comprehend by the end of the third grade is among our state's most important priorities; and

WHEREAS, reading research tells us that children who can read and comprehend successfully are dramatically less likely to drop out of school or end up in prison; and

WHEREAS, experts agree that children need to be motivated to read and that the model of family and other adults reading to them sends a powerful message about the importance of reading; and

WHEREAS, the Idaho Legislature believes that assisting the children in our state to become successful adults by learning to read and comprehend at an early age should be a focus of this legislative session; and

WHEREAS, Sunday, March 2, 2003, is the 99th anniversary of the birth of Dr. Seuss, the well-known author of children's books; and

WHEREAS, the Idaho Legislature believes there is no other more appropriate time to encourage Idahoans to read to all the children in our state.

NOW, THEREFORE, BE IT RESOLVED by the members of the Senate, assembled in the First Regular Session of the Fifty-seventh Idaho Legislature, that Monday, March 3, 2003, shall be declared "Read Across Idaho Day"; and

BE IT FURTHER RESOLVED that the members of the Senate, by declaring March 3, 2003, as "Read Across Idaho Day," do hereby encourage all parents, educators and other adults to spend a minimum of fifteen minutes that day reading to a child; and

BE IT FURTHER RESOLVED that the members of the Senate do hereby encourage all adult citizens of the great state of Idaho to advance the cause of education, introduce the wonders of books, and help our state's children succeed by taking every opportunity, every day, to read to a child.

SCR 107

BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND REJECTING A CERTAIN RULE OF THE IDAHO COMMISSION ON AGING RELATING TO SENIOR SERVICES PROGRAM FEES AND CLIENT CONTRIBUTIONS.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Idaho Commission on Aging relating to senior services program fees and client contributions is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 15.01.01, Section 025, a rule of the Idaho Commission on Aging relating to senior services program fees and client contributions, adopted as a pending rule under Docket Number 15-0101-0201, be, and the same is hereby rejected and declared null, void and of no force and effect.

SCR 108
BY JUDICIARY AND RULES COMMITTEE

A CONCURRENT RESOLUTION
 STATING FINDINGS OF THE LEGISLATURE AND
 REJECTING A CERTAIN RULE OF THE DEPARTMENT OF
 HEALTH AND WELFARE RELATING TO ELIGIBILITY
 FOR AID TO THE AGED, BLIND AND DISABLED AND
 CONCERNING REBUTTABLE PRESUMPTION.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Legislature is vested with authority to reject executive agency rules under the provisions of Section 67-5291, Idaho Code, in the event that the Legislature finds that the rules are not consistent with legislative intent; and

WHEREAS, it is the finding of the Legislature that a certain rule of the Department of Health and Welfare relating to eligibility for aid to the aged, blind and disabled and concerning rebuttable presumption is not consistent with legislative intent and should be rejected.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-seventh Idaho Legislature, the Senate and the House of Representatives concurring therein, that IDAPA 16.03.05, Section 831, Subsection 01, a rule of the Department of Health and Welfare relating to eligibility for aid to the aged, blind and disabled and concerning rebuttable presumption, adopted as a pending rule under Docket Number 16-0305-0202, be, and the same is hereby rejected and declared null, void and of no force and effect.

SR 103, SCR 107, and SCR 108, were introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

February 26, 2003

The HEALTH AND WELFARE Committee reports out **H 22, H 23, H 24, and H 25** with the recommendation that they do pass.

BRANDT, Chairman

H 22, H 23, H 24, and H 25 were filed for second reading.

February 26, 2003

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Scott Farr to the Idaho Outfitters and Guides Licensing Board, term to expire April 20, 2005.

NOH, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 26, 2003

The STATE AFFAIRS Committee reports out **H 162, H 164, H 165, H 166, H 247, HCR 23, and S 1130** with the recommendation that they do pass.

SORENSEN, Chairman

H 162, H 164, H 165, H 166, H 247, and S 1130 were filed for second reading.

HCR 23 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 26, 2003

The RESOURCES AND ENVIRONMENT Committee reports it has had under consideration the Idaho Fish and Game Commission appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Ray Lyon to the Idaho Outfitters and Guides Licensing Board, term to expire May 31, 2005.

NOH, Chairman

The Fish and Game Commission appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 27, 2003

The LOCAL GOVERNMENT AND TAXATION Committee reports out **H 255, H 223, H 151, and H 225** with the recommendation that they do pass.

BUNDERSON, Chairman

H 255, H 223, H 151, and H 225 were filed for second reading.

February 27, 2003

The HEALTH AND WELFARE Committee reports out **H 21** with the recommendation that it do pass.

BRANDT, Chairman

H 21 was filed for second reading.

February 27, 2003

The HEALTH AND WELFARE Committee reports out **H 19 and H 20** with the recommendation that they do pass, and with the recommendation that they be placed on the Consent Calendar.

BRANDT, Chairman

H 19 and **H 20** were filed for second reading.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

February 26, 2003

Mr. President:

I transmit herewith Enrolled **H 219** and **H 111**, as amended, for the signature of the President.

JUKER, Chief Clerk

The President signed Enrolled **H 219** and **H 111**, as amended, and ordered them returned to the House.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

On request by President Pro Tempore Geddes, granted by unanimous consent, **SCR 106** retained its place on the calendar for Monday, March 3, 2003.

The President announced that **HCR 16** was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Brandt, seconded by Senator Burkett, **HCR 16** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

The President announced the Transportation Committee report relative to the Gubernatorial appointment of Monte McClure was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Ingram, seconded by Senator Marley, the Gubernatorial appointment of Monte McClure as a member of the Idaho Transportation Board was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1133

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO REGULATION OF INSTALLERS OF HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS; AMENDING TITLE 54, IDAHO CODE, BY THE

ADDITION OF A NEW CHAPTER 50, TITLE 54, IDAHO CODE, TO PROVIDE A DECLARATION OF POLICY, TO PROVIDE EXCEPTIONS, TO PROVIDE DEFINITIONS, TO CREATE THE IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD, TO PROVIDE POWERS AND DUTIES OF THE BOARD, TO PROVIDE POWERS AND DUTIES OF THE ADMINISTRATOR OF THE DIVISION OF BUILDING SAFETY, TO PROVIDE REQUIREMENTS FOR ISSUANCE OF CERTIFICATES OF COMPETENCY, TO PROVIDE THAT A CERTIFICATE IS A PREREQUISITE TO ENGAGING IN HEATING, VENTILATION AND AIR CONDITIONING WORK, TO PROVIDE FOUR CLASSIFICATIONS OF COMPETENCY, TO REQUIRE EXAMINATIONS OF ALL APPLICANTS FOR A CERTIFICATE OF COMPETENCY, TO PROVIDE FOR THE ISSUANCE OF A CERTIFICATE OF COMPETENCY, TO PROVIDE FEES FOR EXAMINATIONS, CERTIFICATES AND REGISTRATION OF APPRENTICES, TO PROVIDE FOR CERTIFICATE EXPIRATION AND RENEWAL, TO REQUIRE CERTIFICATES TO BE DISPLAYED IN PLACE OF BUSINESS AND AVAILABLE WHILE ON THE JOB, TO PROVIDE FOR EXCLUSIVE JURISDICTION OF THE STATE FOR ISSUANCE OF CERTIFICATES AND TO PLACE CERTAIN RESTRICTIONS ON LOCAL JURISDICTIONS, TO REQUIRE THAT PERMITS BE OBTAINED PRIOR TO PERFORMING HEATING, VENTILATION AND AIR CONDITIONING WORK WITH AN EXCEPTION, TO PROVIDE FOR APPLICATION AND FEES FOR A PERMIT, TO PROVIDE FOR INSPECTION OF PERMITTED WORK, TO PROVIDE FOR APPROVAL AND CERTIFICATION OF INSPECTIONS, TO PROVIDE FOR REQUESTING AN INSPECTION AND FOR REINSPECTIONS, TO PROVIDE FOR APPOINTMENT AND QUALIFICATION OF INSPECTORS, TO SPECIFY VIOLATIONS AND TO PROVIDE PENALTIES, TO PROVIDE THAT THE ATTORNEY GENERAL AND COUNTY PROSECUTING ATTORNEYS SHALL REPRESENT THE STATE IN ACTIONS OR PROCEEDINGS INVOLVING QUESTIONS RELATIVE TO THIS CHAPTER AND TO CREATE THE IDAHO HEATING, VENTILATION AND AIR CONDITIONING BOARD FUND; AND DECLARING AN EMERGENCY.

S 1134

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE PROMISE SCHOLARSHIP PROGRAM; AMENDING SECTION 33-4303, IDAHO CODE, TO PROVIDE FOR APPLICATION AND TO PROVIDE FOR THE IDAHO ROBERT R. LEE PROMISE SCHOLARSHIP PROGRAM.

S 1135

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO STATE BUILDINGS; AMENDING SECTION 39-4103, IDAHO CODE, TO PROVIDE THAT ALL BUILDINGS AND OTHER FACILITIES OWNED BY ANY STATE GOVERNMENT AGENCY OR ENTITY, OR WHICH ARE CONSTRUCTED OR RENOVATED SPECIFICALLY FOR USE OR OCCUPANCY BY ANY SUCH STATE

AGENCY OR ENTITY, INCLUDING THOSE OWNED, CONSTRUCTED, OR FINANCED BY THE IDAHO STATE BUILDING AUTHORITY, SHALL CONFORM TO THE CODES ADOPTED IN THE IDAHO BUILDING CODE ACT AND TO CODES FOR PLUMBING AND ELECTRICAL WORK, AND SHALL BE SUBJECT EXCLUSIVELY TO THE JURISDICTION OF THE STATE DIVISION OF BUILDING SAFETY FOR PURPOSES OF ALL PLAN REVIEWS, PERMITTING AND INSPECTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

S 1136
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO DOMESTIC RELATIONS AND THE STATE MILITIA; AMENDING SECTION 32-717, IDAHO CODE, TO PROVIDE THAT WHEN AN ACTIVE MEMBER OF THE IDAHO NATIONAL GUARD HAS BEEN ORDERED OR CALLED TO DUTY, THE MILITARY SERVICE SHALL NOT BE A SUBSTANTIAL OR MATERIAL AND PERMANENT CHANGE IN CIRCUMSTANCE TO MODIFY PREVIOUSLY DECREED CHILD CUSTODY AND VISITATION PRIVILEGES AND TO MAKE TECHNICAL CORRECTIONS; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING CONTINGENCIES FOR AN EFFECTIVE DATE.

S 1137
BY STATE AFFAIRS COMMITTEE
AN ACT

RELATING TO THE STATE MILITIA; REPEALING SECTION 46-409, IDAHO CODE; AMENDING CHAPTER 4, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-409, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THE MILITIA CIVIL RELIEF ACT AND TO PROVIDE THAT THE ADJUTANT GENERAL OR HIS DESIGNEE SHALL BE RESPONSIBLE TO EXECUTE CERTIFICATES OF SERVICE; AMENDING CHAPTER 37, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-3719, IDAHO CODE, TO PROVIDE DUTIES OF EDUCATIONAL INSTITUTIONS OF THIS STATE WHENEVER A STUDENT WHO IS AN ACTIVE MEMBER OF THE IDAHO NATIONAL GUARD IS CALLED OR ORDERED TO STATE ACTIVE DUTY FOR THIRTY CONSECUTIVE DAYS OR MORE; PROVIDING SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING CONTINGENCIES FOR AN EFFECTIVE DATE.

S 1133, S 1134, S 1135, S 1136, and S 1137 were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1120, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

H 103 and **H 138**, by Transportation and Defense Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

H 147 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Stegner arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 33.

NAYS--None.

Absent and excused--Brandt, Davis. Total - 2.

Total - 35.

Whereupon the President declared **H 147** passed, title was approved, and the bill ordered returned to the House.

The President called President Pro Tempore Geddes to the Chair.

S 1067 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Kennedy arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Compton, Darrington, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 32.

NAYS--Williams. Total - 1.

Absent and excused--Cameron, Davis. Total - 2.

Total - 35.

Whereupon the President Pro Tempore declared **S 1067** passed, title was approved, and the bill ordered transmitted to the House.

The President returned to the Chair.

S 1051 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Goedde and Stennett arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Burkett, Calabretta, Compton, Darrington, Geddes, Goedde, Ingram, Kennedy, Lodge, Malepeai, Marley, McWilliams, Noble, Noh, Schroeder, Stennett, Werk, Williams. Total - 21.

NAYS--Bunderson, Burtenshaw, Cameron, Gannon, Hill, Keough, Little, McKenzie, Pearce, Richardson, Sorensen, Stegner, Sweet. Total - 13.

Absent and excused--Davis. Total - 1.

Total - 35.

Whereupon the President declared **S 1051** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Stegner, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:05 p.m. until the hour of 10:30 a.m., Friday, February 28, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary